

REMARKS

Claims 1-54 are pending. Claims 17-21 have been allowed.

Claims 1-9 and 22-52 were rejected under 35 U.S.C. § 102.

Claims 10-16 were objected to as dependent on a rejected claim.

Claims 4-7, 9 and 27-29 have been canceled. Claims 1, 8, 10, 17, 19, 20, 22, 24, 26, 30, 32, 34, 35, 37, 39, 40, 42, 43, 45, 46 and 49-54 have been amended. Claims 55-92 have been added.

Reconsideration and allowance of Claims 1-3, 8, 10-26 and 30-54, and allowance of Claims 55-92, is requested.

Rejection of Claims under 35 U.S.C. § 102

In the Office Action, Claims 1-9 and 22-54 were rejected under 35 U.S.C. § 102 as being anticipated by Dimitrova et al. (U.S. Patent No. 6,100,941).

The Office Action appears to mischaracterize or overlook many of Applicants' remarks in the Response to Office Action dated April 2, 2008 (hereinafter, the "previous Office Action response"). Consequently, those remarks regarding the patentability of Applicants' claims have not been addressed in the Office Action and Applicants contend that the claims of this application are patentable without further amendment for at least those reasons.

For instance, the Office Action states that "[t]he Applicant argues that Dimitrova et al. fails to disclose a sequence of blank frames, thereby disclosing a blank segment." However, that is not what Applicants argued. On pages 30-31 of the previous Office Action response, Applicants stated (emphasis added):

Even though Dimitrova et al. teach detection of a sequence of black frames, Dimitrova et al. do not teach that detection of a sequence of black frames constitutes detection of a blank segment (rather, such a sequence may be an indication of the location of a commercial). Even more to the point, Dimitrova et al. do not teach, even in column 18, lines 36-52 of the Dimitrova et al. patent, receiving input regarding blank frame determinations for frames of visual recording data and evaluating a characteristic of those frames of visual recording data to determine whether those frames of visual recording data constitute a blank segment (i.e., a segment that does not correspond to recorded visual content), as in Applicants' invention. Nor would it be obvious to modify the teaching of Dimitrova et al. to produce blank segment identification as in Applicants' invention, given the completely different goals of the invention taught by Dimitrova et al. (detection of commercials, i.e., detection of segments of a visual recording that correspond to recorded visual content of a particular type) and the invention of the present application (detection of blank segments, i.e., detection of segments of a visual recording that do not correspond to recorded visual content).

As stated on page 26 of the previous Office Action response (emphasis added), "[w]hile it may seem that the teaching of Dimitrova et al. regarding detection of a sequence of black frames constitutes identification of a blank segment as in Applicants' invention, that is not the case, as explained in more detail [herein]." On pages 27-28 of the previous Office Action response, Applicants stated (emphasis added):

Assuming arguendo that the detection of black frames taught by Dimitrova et al. constitutes blank frame determinations as in Applicants' invention, those [blank] determinations are not used in determining whether a set of frames of visual recording data constitutes a blank segment, but, instead, are used in determining the location of a commercial in a visual recording. Though Dimitrova et al. teach identifying the occurrence of a sequence of black frames, that is not, even assuming arguendo that such is an identification of a sequence of blank frames, identification of a blank segment as in Applicants' invention. In fact, a sequence of blank frames may not

be identified as a blank segment by Applicants' invention. ... Moreover, ... a blank segment may be identified by Applicants' invention that includes frames that are not blank frames and/or that includes blank frames that stand alone and are not part of a sequence of blank frames.

[I]n Applicants' invention, identification of the occurrence of a blank segment is not simply a matter of identifying the occurrence of a sequence of blank frames, but, rather, evaluating a characteristic of frames of visual recording data for which blank frame determinations have been made. ...

The foregoing remarks have not been addressed in the Office Action.

Additionally, the Office Action states that "[t]he Applicant argues that Dimitrova et al. fails to disclose a plurality of blank frame detectors." However, that is not what Applicants argued. Rather, on page 33 of the previous Office Action response, Applicants stated (emphasis added):

[T]hough ... Dimitrova et al. teach the identification of unicolor frames, Dimitrova et al. do not teach that the identification of such frames can be used in the identification of a blank segment, alone or in combination with detection of any other type of frame, such as a black frame, and so do not teach a "blank segment detector adapted to receive input from [a] plurality of blank frame detectors regarding a plurality of frames of visual recording data and to evaluate a characteristic of the plurality of frames of visual recording data to determine whether the plurality of frames of visual recording data is a blank segment," as recited in Claim 1.

The foregoing remarks have not been addressed in the Office Action.

The Office Action also states that "[t]he Applicant argues that Dimitrova et al. fails to disclose that the blank frame detector is adapted to identify blank frames of multiple types." That is not what Applicants argued. Rather, on pages 34 35 of

the previous Office Action response, Applicants stated (emphasis added):

Dimitrova et al. do not teach a "blank segment detector adapted to receive input from [a] blank frame detector regarding a plurality of frames of visual recording data and to evaluate a characteristic of the plurality of frames of visual recording data to determine whether the plurality of frames of visual recording data is a blank segment," where the blank frame detector is adapted to identify blank frames of multiple types, as recited in Claim 8. Even assuming arguendo that the detection of black frames and detection of unicolor frames described by Dimitrova et al. constitutes detection of blank frames of two different types, Dimitrova et al. do not teach that such identification of frames can be used in the identification of a blank segment.

The foregoing remarks have not been addressed in the Office Action.

The Office Action states that "[L]he Applicant argues that Dimitrova et al. fails to disclose that a blank frame detector which makes use of color information for individual pixels to determine whether a frame is a blank frame." However, that is an incomplete statement of what Applicants argued. On page 37 of the previous Office Action response, Applicants stated that "Dimitrova et al. do not appear to teach or make obvious the particular characteristics of the blank frame detector recited in Claim 9." (Before cancellation herein, Claim 9 recited that the blank frame detector includes "means for determining if, for each color component, the numerical value of a specified number of the pixels of the frame is within a specified magnitude of the average numerical value of that color component for all of the pixels of the frame" and "means for determining if the average numerical value of each color component for all of the pixels of

SEP 26, 2008

the frame is within a specified range and/or has a specified relationship with the average numerical value of one or more other color components.") On page 38 of the previous Office Action response, Applicants further stated that "[Dimitrova et al. do not] teach or make obvious the particular determinations recited in Claim 9 that are used in making blank frame determinations by the apparatus recited in Claim 9." The foregoing remarks have not been addressed in the Office Action.

On page 44 of the previous Office Action response, Applicants stated:

Even assuming arguendo that the detection of a sequence of black frames described by Dimitrova et al. at column 18, lines 36-52 of the Dimitrova et al. patent constitutes a blank segment detector that identifies a blank segment that does not correspond to recorded visual content, as contended in the Office Action, Dimitrova et al. do not teach the use of any other blank segment detector, either that makes use of detection of black frames or, as discussed above, that makes use of detection of any other type of frame, and, consequently, do not teach "a plurality of blank segment detectors," as recited in Claim 22.

The foregoing remarks do not appear to have been addressed at all in the Office Action.

Additionally, the Office Action states that "[t]he Applicant argues that Dimitrova et al. fails to disclose determining whether the plurality of frames of visual recording data is a blank segment that does not correspond to recorded visual content and includes one or more blank frames of a first type and one or more blank frames of a second type that is different from the first type." However, that is not what Applicants argued.

Rather, on page 46 of the previous Office Action response, Applicants stated (emphasis added):

Dimitrova et al. do not teach a "blank segment detector adapted to ... determine whether [a] plurality of frames of visual recording data is a blank segment ... that includes one or more blank frames of a first type and one or more blank frames of a second type that is different from the first type," as recited in Claim 24. Even assuming arguendo that the detection of black frames and detection of unicolor frames described by Dimitrova et al. constitutes detection of blank frames of two different types, Dimitrova et al. do not teach that such identification of frames can be used in the identification of a blank segment including both types of frames.

The foregoing remarks have not been addressed in the Office Action.

The Office Action also states that "[t]he Applicant argues that Dimitrova et al. fails to disclose a blank segment that is all or nearly all one color." However, on page 47 of the previous Office Action response, Applicants stated (emphasis added):

Even though Dimitrova et al. teach the identification of unicolor frames, Dimitrova et al. do not teach that the identification of such frames can be used in the identification of a blank segment (and, in particular, a blank segment that is all or nearly all one color), and so do not teach a "blank segment detector adapted to receive input from [a] blank frame detector regarding a plurality of frames of visual recording data and to evaluate a characteristic of the plurality of frames of visual recording data to determine whether the plurality of frames of visual recording data is a blank segment that does not correspond to recorded visual content and that is all or nearly all one color," as recited in Claim 26.

The foregoing remarks have not been addressed in the Office Action.

On pages 48-49 of the previous Office Action response, Applicants stated:

Dimitrova et al. do not teach or make obvious a "blank frame detector adapted to evaluate a frame of visual recording data to determine whether the frame of visual recording data is a snow-static frame", as recited in Claim 34, and, therefore, do not teach or make obvious a "blank segment detector adapted to ... determine whether [a] plurality of frames of visual recording data is a blank segment ... that is all or nearly all snow-static," as recited in Claim 34.

The foregoing remarks do not appear to have been addressed at all in the Office Action.

Further, the Office Action states that "[t]he Applicant argues that Dimitrova et al. fails to disclose determinations are made for successive frames of visual recording data as the frames of visual recording data are acquired" and that "[t]he Examiner respectfully disagrees." However, the reasons subsequently stated in the Office Action for that disagreement do not concern "blank segment determinations ... made for successive frames of visual recording data as the frames of visual recording data are acquired or as the frames of visual recording data are being processed for another purpose" (emphasis added), as recited in Claim 39. Consequently, Applicants' remarks in the previous Office Action response regarding Claim 39 do not appear to have been addressed in the Office Action.

Finally, the Office Action states that "[t]he Applicant argues that Dimitrova et al. fails to disclose means for using the detection of one or more blank segments to identify one or more segment boundaries in the set of visual recording data." On page 52 of the previous Office Action response, Applicants stated

that "Dimitrova et al. do not teach determination of blank segments and therefore cannot teach 'means for using the detection of one or more blank segments to identify one or more segment boundaries in the set of visual recording data,'" as recited in [Claim 45]" (emphasis added). These remarks have not been addressed in the Office Action.

Notwithstanding the foregoing, in order to expedite prosecution of this application, Applicants have amended the claims herein to place all claims in condition for allowance. In particular, Claims 1, 8, 22, 24, 26, 34, 39 and 45 have all been amended to depend, either directly or indirectly, on allowed Claim 17, and are therefore now allowable. (Other amendments have been made to some of the pending claims to increase the consistency of recitations in those claims with the manner of other recitations in the claims.) Additionally, Claims 2, 3, 23, 25, 30-33, 35-38, 40-44, 46-50, 53 and 54 each depend, either directly or indirectly, on one of Claims 1, 22, 24, 26, 34, 39 or 45 (and, thus, depend indirectly on Claim 17) and are therefore now allowable.

Claims 4-7, 9 and 27-29 have been canceled, thereby obviating the rejection of those claims.

Claims 51 and 52 have been amended to recite limitations that are similar to those of allowed Claim 19 and are therefore allowable for the same reasons.

In view of the foregoing, it is requested that the rejection of Claims 1-3, 8, 22-26 and 30-54 under 35 U.S.C. § 102 be withdrawn.

Objection to Claims

In the Office Action, Claims 10-16 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims.

Claim 10 has been amended to eliminate the dependency on rejected Claim 9 and include the limitations of that claim. Thus, Claim 10 is allowable. Each of Claims 11-16 depends, either directly or indirectly, on Claim 10 and is therefore allowable as dependent on an allowable claim.

New Claims

Claims 55-92 have been added. Support for Claims 55-92 can be found in Claims 1-52 as filed, as well as corresponding description in Applicants' specification.

Claim 55 depends on allowed Claim 17 and is therefore allowable as dependent on an allowable claim.

Claims 56 and 57 recite limitations that are similar to those of allowed Claim 17 and are therefore allowable for the same reasons.

Each of Claims 58-89 depends directly or indirectly on allowed Claim 19 and is therefore allowable as dependent on an allowable claim.

Claim 90 depends directly on allowable Claim 10 and is therefore allowable as dependent on an allowable claim.

SEP 26 2008

Claims 91 and 92 recite limitations that are similar to those of allowed Claim 10 and are therefore allowable for the same reasons.

CONCLUSION

Claims 1-54 were pending. Claims 17-21 were allowed. Claims 1-9 and 22-52 were rejected. Claims 10-16 were objected to. Claims 4-7, 9 and 27-29 have been canceled. Claims 1, 8, 10, 17, 19, 20, 22, 24, 26, 30, 32, 34, 35, 37, 39, 40, 42, 43, 45, 46 and 49-54 have been amended. Claims 55-92 have been added. In view of the foregoing, it is requested that Claims 1-3, 8, 10-26 and 30-92 be allowed. If the Examiner wants to discuss any aspect of this application, the Examiner is invited to telephone Applicants' undersigned attorney at (408) 945-9912.

I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, facsimile number (571) 273-8300.
on September 26, 2008.

9-26-08
Date

David R. Graham
Signature

Respectfully submitted,

David R. Graham
David R. Graham
Reg. No. 36,150
Attorney for Applicants